

the subject matter. Claims 8, 9, 10 and 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Douillet, European Patent No. 370,900 in view of Wittstock, German Patent No. 4,103,235.

Claims 8 and 10 have been amended to further clarify the patentable subject matter of the invention. Claims 1-12 remain in the case for consideration. No new subject matter has been added. Reconsideration is requested.

Claims 8 and 10 have been amended to correct an antecedent basis problem for the term "strap pin". Therefore claims 8-12 are now allowable under U.S.C. §112.

Regarding the rejection of claims 8-12 under 35 U.S.C. §103(a), the Examiner states that Douillet teaches all of the elements of the invention except a channel being located entirely above a skier's hand.

Claims 8 and 10 have been amended to include the limitation of a button depressible by a thumb on the hand of the skier disengaging the attachment mechanism from the pin allowing the ejection mechanism to eject while said same hand of the skier remains wrapped around the ski pole grip.

The button mechanism 37 in Douillet does not allow a thumb on the hand of a skier to disengage the attachment mechanism 35, 38, 44 from a pin while that same hand of the skier remains wrapped around the ski pole grip. In Douillet there is no way that the thumb of the skier can even reach button 37 while the hand of the skier remains wrapped around the ski pole grip. For this reason, claims 8, 9, 10 and 12 are allowable under 35 U.S.C. §103(a) over Douillet in view of Wittstock.

Regarding claim 11, the Examiner states that Douillet and Wittstock fail to teach the strap as being elastic but that Dondero teaches a ski grip having an elastic strap element. Neither Douillet, Wittstock or Dondero teach an elastic strap sized to length to connect the pin to the glove on the hand of the skier under tension so that, upon depressing the button, the strap can pull the pin out of the attachment mechanism. Dondero and Wittstock do not even suggest a pin assembly, not to mention a pin assembly attached to a glove of a skier with a piece of elastic. Douillet, Wittstock and Dondero also do not teach an elastic strap sized to length under tension so that upon depressing a button, the strap pulls the pin out of the attachment mechanism.

Therefore claim 11 is patentable under 35 U.S.C. §103(a) over Douillet in view of

Wittstock and Dondero.

The Examiner has rejected claims 8-12 under 35 U.S.C. § 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for patent upon which the present reissue is based. The Examiner states that claims 8-12 fail to set forth the limitation of the pin-release button as being located on a lateral side of the ski pole grip, while patented claim 1 does include this limitation. The Examiner also notes that applicant particularly discussed the criticality of the lateral location of the pin release button in a previous office action response.

Patented claim 1 includes the limitation of the push button being on the lateral side of the ski pole grip. But patented claim 7 has no such limitation that the button be located on the lateral side of the of the ski pole grip. Thus, while the distinction of the lateral button was discussed in the earlier office action response, alternative locations for the push button clearly were not surrendered in the patent upon which the present reissue is based. Thus, claims 8-12 do not improperly recapture subject matter under 35 U.S.C. § 251.

Further, claims cannot be rejected for improper recapture when they are "more restrictive in at least one significant respect than the cancelled claims." In re Richman, 409 F.2d 269, 161 USPQ 359 (CCPA 1969). In Ball Corp v. United States, 729 F.2d 1429, 221 USPQ 289 (Fed. Cir. 1984), the reissue claims did cover a feature surrendered during original prosecution. However, the claims were by virtue of several elements narrower than the abandoned claims. The reissue claims were also broader in certain respects. Thus, the claims were sufficiently narrower in some respects than the cancelled claims to avoid the effect of the recapture rule. Id.

Claims 1-12 are all narrower in certain aspects from the original claims. For instance, claim 10 includes the limitation of a retractable finger protruding across a portion of the channel and the pin inserting horizontally into the channel and engaging the notch with the finger. Claim 10 also includes the limitation of a button on the ski pole grip mechanically coupled to the finger and the button depressible by a thumb on the hand of the skier to retract the finger from the notch in the end portion of the pin, allowing the pin to detach from the attachment mechanism.

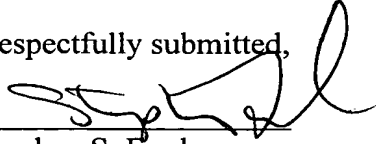
Neither the retractable finger or the button depressable by a thumb on the hand of a skier limitations were included in the original patented claims. Therefore, claims 8-12 do not

violate the recapture and are allowable under 35 U.S.C. § 251.

Also submitted herewith is Applicant's original Patent No. 5,549,330 on which this reissue application is based.

Accordingly, applicant requests that the amendments be entered and the application be allowed.

Respectfully submitted,



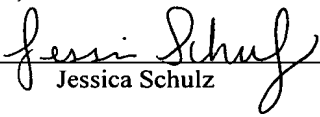
Stephen S. Ford
Reg. No. 35,139

MARGER JOHNSON
& McCOLLOM, P.C.
1030 S.W. Morrison Street
Portland, Oregon 97205
(503) 222-3613

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Fee Amendment, Assistant Commissioner for Patents, Washington DC 20231 on:

Date: May 23, 2000

Signature



Jessica Schulz